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March 5, 2020

Hon. Rebecca Beach Smith  
 United States District Court  
 Eastern District of Virginia  
 600 Granby Street  
 Norfolk, VA 23510

**Re: *In re Zetia (Ezetimibe) Antitrust Litig.*, MDL No. 2836 (E.D. Va.)**

Dear Judge Smith:

I write on behalf of the direct purchaser class plaintiffs regarding their motion for final approval of settlement and entry of final judgment and order of dismissal as to Par Pharmaceutical, Inc. (the “Final Approval Motion”),<sup>1</sup> which is set for hearing this Friday – March 6, 2020.

In making the Final Approval Motion, we informed the Court that subsequent to the Court’s preliminary approval of the direct purchaser class plaintiffs’ settlement with Par, class counsel sent out letters providing additional information to certain class members, as defined in the direct purchaser class plaintiffs’ settlement with Par.<sup>2</sup> Specifically, these letters informed class members of either 1) the Court’s December 20, 2019 Memorandum Opinion and Order granting the Merck and Glenmark defendants’ motion to dismiss “insofar as [it] seek[s] damages from Merck and Glenmark stemming from purchases made from Par,”<sup>3</sup> 2) that in connection with their motion for certification of a litigation class against Merck and Glenmark, the direct purchaser class plaintiffs proposed an amended proposed class definition beginning later in time than the class defined in the Par settlement, or 3) both, depending on the circumstances of each class member.

In total, class counsel sent twenty-nine letters. In each, we requested that if the additional information provided caused any concern, they contact class counsel ahead of the March 6, 2020 hearing (affording more than a month to respond).<sup>4</sup> Class counsel received only one response to

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<sup>1</sup> ECF Nos. 860-862.

<sup>2</sup> See Memorandum In Support of Final Approval, ECF No. 861, at \*8-10.

<sup>3</sup> See Memorandum Opinion and Order, ECF No. 795 at 14-20.

<sup>4</sup> Initially, two of the letters were returned as undeliverable. We immediately resent each letter to the registered agents for the respective entities.

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any of these twenty-nine letters. That lone response simply informed class counsel that one of the entities had been acquired by a larger drug wholesaler in 2012 and, as such, had no separate purchase of Zetia in the updated class period. A copy of this response is attached hereto as Exhibit 1.

As of the date of this letter, class counsel have not received any other communications from any class member. We also have not received any exclusions other than those identified in the Final Approval Motion (i.e., the retailer plaintiffs maintaining separate suits in this multi-district litigation). Nor have we received any objection to the settlement.

Sincerely,

A handwritten signature in blue ink, appearing to read 'T. Sobol', with a stylized flourish at the end.

Thomas M. Sobol

Encl.

Respectfully submitted,

Dated: March 5, 2020

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*Counsel for Rochester Drug Cooperative, Inc. and the Proposed Direct Purchaser Class*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 5, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record who have made a formal appearance

Dated: March 5, 2020

/s/ William H. Monroe, Jr.  
William H. Monroe, Jr. (VSB No. 27441)